



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**VIA UPS**

**Signature required**

MAY 16 2016

Ms. Kelly Wright  
Senior Manager Environmental Relations  
Johnson Controls  
700 N. Broad Street  
Middletown, DE 19709-1050

**Re: Notice of Violation  
Compliance Evaluation Inspection  
March 29, 2016  
EPA ID No. DED002353092**

**Docket Number: R3-16-NOV-RCRA-017**

Dear Ms. Wright:

On March 29, 2016 the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection ("CEI") under the Delaware Regulations Governing Hazardous Waste (DRGHW) and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. at Johnson Controls (the Facility). A copy of the inspection report is enclosed. Based on that inspection and/or review of other pertinent information, EPA has determined that the Facility is violating regulations promulgated under DRGHW and RCRA. As a result of this finding, the Agency is issuing this **Notice of Violation (NOV)**. The specific violation(s) are:

1. The top of the Aerosol Can Puncturing Unit container had dried paint residue covering it and a dark liquid pooled in its recesses (Photo #11). The Strip Casting Unit had re-solidified molten lead and lead strips on the floor around its base (Photo #14). These areas were not maintained not in accordance with DRGHW §265.31 [40 CFR §265.31] which requires that facilities be maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.
2. A hazardous waste container in the Maintenance Shop (Photos #6 and #7) and a 4.5 gallon used aerosol can container under the assembly conveyor in the Cast-on-Strap Area were not closed in accordance with DRGHW §265.31 [40 CFR §265.31], which requires containers holding hazardous waste always remain closed during storage, except when it is necessary to add or remove waste.

3. Universal Waste Lamps found on the floor, under a table within the Junk Core Storage Area, in (2) open, unlabeled, undated containers (Photos #16 and #17).
  - a. The observed Universal Waste Lamps were not contained properly pursuant to DRGHW §273.13 (d)(1) [40 CFR §273.13 (d)(1)] which requires that Universal Waste Lamps be stored in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.
  - b. The observed Universal Waste Lamps were not labeled pursuant to DRGHW §273.14 (e) [40 CFR §273.14 (e)] which requires that each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste – Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)".
  - c. The observed Universal Waste Lamps were not dated pursuant to DRGHW §273.15 (c)(1) [40 CFR §273.15 (c)(1)] which requires placing universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received.

#### Area of Concern

An area of concern was identified with the storage of hazardous waste containers in the 90-Day Hazardous Waste Storage Area, because the date on the hazardous waste labels of the third, or top palletized containers, was not clearly visible pursuant to DRGHW §262.34 (a)(2) [40 CFR §262.34 (a)(2)] which requires that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$37,500 per day of violation. In addition, failure to achieve and maintain compliance with the regulations cited in this Notice of Violation may be treated as a repeated offense and may constitute a "knowing" violation of Federal law.

Within twenty (20) calendar days of the receipt of this NOV, please submit a response documenting the measures the facility has taken or is taking to achieve compliance with the violations noted above or provide an explanation of facts and circumstances that cause you to believe that EPA's determination of the alleged violations are in error. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.



This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the one cited in this letter, or past violations in any future enforcement action. Any response to this NOV shall be addressed to:

Eric Greenwood (3LC70)  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103



Carol Amend, Associate Director  
Land and Chemicals Division  
Office of Land Enforcement

May 16, 2016  
Date

Enclosure

cc: E. Greenwood (3LC70) w/o Enclosure  
P. Belgiovane (3LC70) w/o Enclosure  
K. J'Anthony (DNREC) w/o Enclosure